

PATENT COOPERATION TREATY

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INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

(Chapter II of the Patent Cooperation Treaty)

(PCT Article 36 and Rule 70)

Applicant's or agent's file reference RD446	FOR FURTHER ACTION	
See Form PCT/PEA/416		
International application No. PCT/GB2004/002961	International filing date (day/month/year) 09.07.2004	Priority date (day/month/year) 10.07.2003
International Patent Classification (IPC) or national classification and IPC A24D3/08, A24D3/16, A24D3/04, A24D3/12		
Applicant BRITISH AMERICAN TOBACCO (INVESTMENTS) LIMITED		
<p>1. This report is the international preliminary examination report, established by this International Preliminary Examining Authority under Article 35 and transmitted to the applicant according to Article 36.</p> <p>2. This REPORT consists of a total of 5 sheets, including this cover sheet.</p> <p>3. This report is also accompanied by ANNEXES, comprising:</p> <ul style="list-style-type: none"> a. <input type="checkbox"/> (<i>sent to the applicant and to the International Bureau</i>) a total of sheets, as follows: <ul style="list-style-type: none"> <input type="checkbox"/> sheets of the description, claims and/or drawings which have been amended and are the basis of this report and/or sheets containing rectifications authorized by this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions). <input type="checkbox"/> sheets which supersede earlier sheets, but which this Authority considers contain an amendment that goes beyond the disclosure in the international application as filed, as indicated in item 4 of Box No. I and the Supplemental Box. b. <input type="checkbox"/> (<i>sent to the International Bureau only</i>) a total of (indicate type and number of electronic carrier(s)), containing a sequence listing and/or tables related thereto, in computer readable form only, as indicated in the Supplemental Box Relating to Sequence Listing (see Section 802 of the Administrative Instructions). 		
<p>4. This report contains indications relating to the following items:</p> <ul style="list-style-type: none"> <input checked="" type="checkbox"/> Box No. I Basis of the opinion <input type="checkbox"/> Box No. II Priority <input type="checkbox"/> Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability <input type="checkbox"/> Box No. IV Lack of unity of invention <input checked="" type="checkbox"/> Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement <input type="checkbox"/> Box No. VI Certain documents cited <input type="checkbox"/> Box No. VII Certain defects in the international application <input type="checkbox"/> Box No. VIII Certain observations on the international application 		
Date of submission of the demand 09.02.2005	Date of completion of this report 01.08.2005	
Name and mailing address of the international preliminary examining authority:  European Patent Office - P.B. 5818 Patentlaan 2 NL-2280 HV Rijswijk - Pays Bas Tel. +31 70 340 - 2040 Tx: 31 651 epo nl Fax: +31 70 340 - 3016	Authorized Officer Lepretre, F Telephone No. +31 70 340-	



INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

International application No.
PCT/GB2004/002961

Box No. I Basis of the report

1. With regard to the **language**, this report is based on the international application in the language in which it was filed, unless otherwise indicated under this item.
 - This report is based on translations from the original language into the following language , which is the language of a translation furnished for the purposes of:
 - international search (under Rules 12.3 and 23.1(b))
 - publication of the international application (under Rule 12.4)
 - international preliminary examination (under Rules 55.2 and/or 55.3)
2. With regard to the **elements*** of the international application, this report is based on (*replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report*):

Description, Pages

1-11 as originally filed

Claims, Numbers

1-40 as originally filed

Drawings, Sheets

1/2-2/2 as originally filed

a sequence listing and/or any related table(s) - see Supplemental Box Relating to Sequence Listing

3. The amendments have resulted in the cancellation of:
 - the description, pages
 - the claims, Nos.
 - the drawings, sheets/figs
 - the sequence listing (*specify*):
 - any table(s) related to sequence listing (*specify*):
4. This report has been established as if (some of) the amendments annexed to this report and listed below had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).
 - the description, pages
 - the claims, Nos.
 - the drawings, sheets/figs
 - the sequence listing (*specify*):
 - any table(s) related to sequence listing (*specify*):

* If item 4 applies, some or all of these sheets may be marked "superseded."

**INTERNATIONAL PRELIMINARY REPORT
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International application No.
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Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N)	Yes:	Claims 5-7 13-21 27 28 37-40
	No:	Claims 1-4 8-12 22-26 29-36
Inventive step (IS)	Yes:	Claims 5-7 13-21 27 28
	No:	Claims 1-4 8-12 22-26 29-40

Industrial applicability (IA) Yes: Claims 1-40
No: Claims

2. Citations and explanations (Rule 70.7):

see separate sheet

**INTERNATIONAL PRELIMINARY
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Re Item V

Reasoned statement with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

Reference is made to the following documents:

- D1: EP-A-0 664 964 (BRITISH AMERICAN TOBACCO LIMITED; BRITISH-AMERICAN TOBACCO COMPANY LI) 2 August 1995 (1995-08-02)
- D2: EP-A-0 579 410 (BRITISH-AMERICAN TOBACCO COMPANY LIMITED) 19 January 1994 (1994-01-19)
- D3: US-A-3 894 545 (CRELLIN ET AL) 15 July 1975 (1975-07-15)

1. Novelty

The present application does not meet the criteria of Article 33(1) PCT, because the subject-matter of claims is not new in the sense of Article 33(2) PCT.

The documents D1, D2, D3 (see passages cited in the search report) all disclose a smoke filter in accordance with present claim 1, i.e. comprising at least two separate portion, one portion containing a adsorbent material and being separated from the second portion by a vapour phase permeable barrier.

The barrier material is not defined but it will unavoidably and implicitly comprise at least some pores of less than 0.1 µm.

This particular feature is hence not considered to define the claimed invention in a clear and unambiguous way, suitable to distinguish its scope from the prior art illustrated by the documents D1-D3.

The features of dependent claims 2-4, 8-12, 22-26, 29-36 is also known from the prior art (see e.g. D3, passages cited in the search report).

It is pointed out that the expression "flexible" and "rigid" used respectively in claims 3 and 4 are relative terms without precise meaning. Novelty cannot be established on such vague expressions.

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2. Inventive step

Dependent claims 37-39 do not contain any features which, in combination with the features of any claim to which they refer, meet the requirements of the PCT in respect of novelty and/or inventive step, the incorporation of a flavorant, in stabilized form or a non volatile flavorant in smoking article is a trivial feature for a person skilled in the art.

The combination of the features of dependent claims 5-7,13-21,27,28 is neither known from, nor rendered obvious by, the available prior art. The reasons are as follows:

The use of a polymeric or ceramic material as vapour permeable barrier means is not suggested in the prior art.

In addition, the use of non-carbonaceous adsorbent or catalyst in combination with a filter structure in accordance with present claim 1 is neither disclosed nor derivable from the available prior art.